

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL, PESHAWAR

Appeal No. 739/2016

Date of Institution ... 20.07.2016

Date of Decision ... 16.04.2018

Zar Wali Shah Ex. SPST, GPS No.1,  
 Shah Mansoor, Village Tano, Post Office Mankai,  
 Tehsil Lahor, District Swabi. ... (Appellant)

VERSUS

1. Province of Khyber Pakhtunkhwa through Secretary Elementary and Secondary Education (E&SE), Khyber Pakhtunkhwa, Civil Secretariat, Peshawar and 2 others. ... (Respondents)

-----  
 Mr. SHAHZADA IRFAN ZIA,  
 Advocate

--- For appellant.

MR. KABIRULLAH KHATTAK  
 Additional Advocate General

--- For respondents

MR. AHMAD HASSAN,  
 MR. MUHAMMAD AMIN KHAN KUNDI

... MEMBER(Executive)  
 ... MEMBER(Judicial)

JUDGMENT

AHMAD HASSAN, MEMBER.- Arguments of the learned counsel for the parties heard and record perused.

FACTS

2. The brief facts are that the appellant was serving as Senior Primary School Teacher. That on the allegations of absence from duty he was removed from service vide impugned order dated 01.02.2016. He filed departmental appeal on 04.05.2016 which was rejected on 16.05.2016, hence, the instant service appeal on 20.07.2016.

ARGUMENTS

3. Learned counsel for the appellant argued that he applied for two years extraordinary leave, while the competent authority sanctioned leave from 01.04.2014 to

30.09.2015. After getting leave he proceeded to Hyderabad for construction of his house. There he got entangled in a property dispute and was unable to join duty after expiry of leave. In the meanwhile the respondent no.3 imposed major penalty of removal from service vide impugned order dated 01.02.2016. The impugned order was delivered at his official address but at that time he was in Hyderabad. He filed departmental appeal on 04.05.2016 which was rejected on 16.05.2016. However, copy of rejection order was communicated to him at his home address was delivered after considerable delay. Learned counsel for the appellant further argued that absence from duty was not deliberate and intentional. In case major penalty is to be imposed regular enquiry should be conducted strictly in accordance with in vogue rules which were not done in this case.

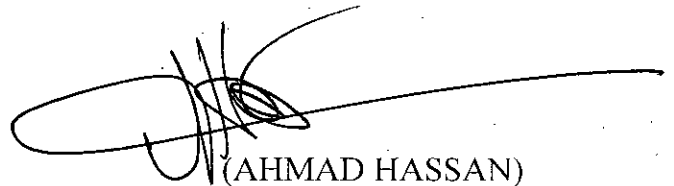
4. On the other hand Learned Additional Advocate General argued that he was unauthorizedly absent from duty w.e.f 01.10.2015. All codal formalities were observed before imposition of major penalty of removal from service. During the course of arguments he presented letter dated 02.03.2018 which showed unauthorized travel history/visits abroad of the appellant from 04.8.2013 to 28.02.2018.

### CONCLUSION

5. Before proceeding further this Tribunal would first like to deal with the issue of limitation. Impugned order was passed on 01.02.2016, while departmental appeal was filed on 04.05.2016, which was rejected on 16.05.2016 and the instant service appeal was filed on 20.07.2016. The above facts reveal that both the departmental and service appeals are time barred. Learned counsel for the appellant when confronted on this point informed that copy of impugned order was dispatched at his school address, but he was in Hyderabad during those days. So far as rejection of departmental appeal is concerned

rejection order was sent at his home address which was delivered by the postman to a co-villager of the appellant and the same was delivered to him after considerable delay. He was further confronted on the point of frequent visits abroad by the appellant without permission of the competent authority but was unable to come up with any justification. As the case is time barred and learned counsel for the appellant was unable to justify the delay so there is no need to touch the merits of the case. Moreover, the issue of visits abroad by the appellant without leave and permission of the competent authority is a serious breach of discipline and amounts to misconduct.

6. As a sequel to above, the appeal is dismissed. Parties are left to bear their own costs. File be consigned to the record room.



(AHMAD HASSAN)  
MEMBER

*Muhammad Amin*  
(MUHAMMAD AMIN KHAN KUNDI)  
MEMBER

ANNOUNCED  
16.04.2018

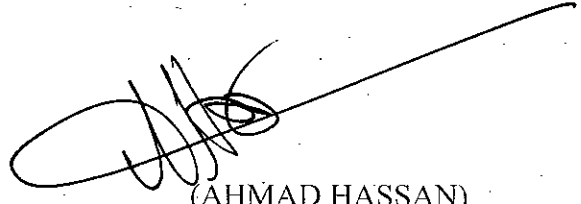
Order

16.04.2018

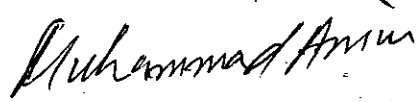
Counsel for the appellant and Addl: AG alongwith Mr. Fazal Khaliq, ADO for respondents present. Arguments heard and record perused.

Vide detailed judgment of today of this Tribunal placed on file, the appeal is dismissed. Parties are left to bear their own cost. File be consigned to the record room.

Announced:  
16.04.2018




(AHMAD HASSAN)  
Member

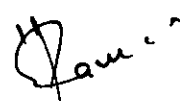


(MUHAMAMD AMIN KHAN KUNDI)  
Member

11.08.2017


Counsel for the appellant present. Mr. Shahi Mulk, Deputy DEO alongwith Mr. Kabirullah Khattak, Assistant AG for the respondents present. Learned counsel for the appellant seeks adjournment. Adjourned. To come up for arguments on 06.12.2017 before D.B.


  
(Muhammad Amin Khan Kundi)  
Member (J)

  
(Muhammad Hamid Mughal)  
Member (J)

06.12.2017

Counsel for the appellant present. Mr. Muhammad Jan, Deputy District Attorney for respondent also present. Counsel for the appellant requested for adjournment. Adjourned. To come up for arguments on 09.02.2018 before the D.B.

  
(Ahmad Hassan)  
Member (E)

  
(Muhammad Amin Khan Kundi)  
Member (J)

09.02.2018

Learned counsel for the appellant and Mr. Usman Ghani, Learned District Attorney alongwith Fazal Khaliq ADO for the respondents present. Learned counsel for the appellant seeks adjournment. Learned District Attorney stated that the appellant was removed from service on the ground of absence and that the appellant is abroad. Representative of the respondent department also submitted copy of Flight Schedule in respect of the appellant. Adjournment requested. Adjourn. To come up for arguments on 16.04.2018 Before D.B

  
(Gul Zeb Khan)  
MEMBER

  
(Muhammad Hamid Mughal)  
MEMBER

28.09.2016

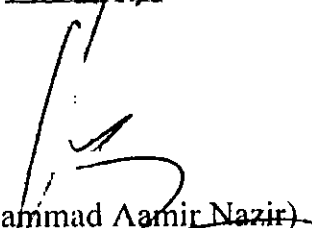
Counsel for the appellant and Mr. Hameed Ur Rehman, AD(Lit) alongwith Addl: AG for respondents present. Written reply submitted. To come up for rejoinder and final hearing on 23.12.2016.



Member

23.12.2016

Counsel for the appellant and Assistant AG for respondents present. Counsel for the appellant requested for time to file rejoinder. Request accepted. To come up for rejoinder and arguments on 10.5.17.



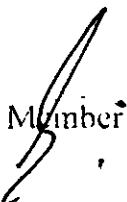
(Muhammad Amir Nazir)  
Member



(Ashfaque Taj)  
Member

05.2017

Clerk to counsel for the appellant and Mr. Fatal Khaliq, ADO alongwith Mr. Muhammad Jan. GP respondents present. Rejoinder submitted. Due to transfer of one of the undersigned as reported in daily "Aaj" dated 10.05.2017, arguments could not be heard. To come up for final hearing on 11.08.2017 before D.B.



Member



Chairman

25.07.2016

Appellant with counsel present. Learned counsel for the appellant argued that the appellant was serving as Senior Primary School Teacher when removed from service vide impugned order dated 01.02.2016 on the allegations of willful absence where-against he preferred departmental appeal which was also rejected on 16.5.2016 and hence the instant service appeal on 20.07.2016.

That the enquiry was not conducted in the prescribed manners. That the appellant was provided no opportunity of defence. That the penalty is harsh as the appellant has put in more than 16 years service and that on the strength of the said penalty appellant deprived of service benefits already rendered by him.

Points urged need consideration. Admit. Subject to deposit of security and process fee within 10 days, notices be issued to the respondents for written reply/comments for 28.09.2016 before S.B. Notice of application for condonation of delay shall also be issued to the respondents for the date fixed.


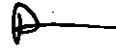
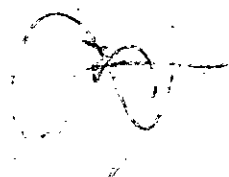
Appellant Deposited  
Security & Process Fee

  
Chairman

Form- A  
FORM OF ORDER SHEET

Court of \_\_\_\_\_

Case No. 739/2016

S.No.	Date of order proceedings	Order or other proceedings with signature of judge or Magistrate
1	2	3
1	20/07/2016	<p>The appeal of Mr. Zar Wali Shah presented today by Shahzada Irfan Zia Advocate may be entered in the Institution Register and put up to Learned Member for proper order please.</p> <p style="text-align: right;"> REGISTRAR</p>
2-	21-7-16	<p>This case is entrusted to S. Bench for preliminary hearing to be put up there on <u>25-7-16</u></p> <p style="text-align: right;"> MEMBER</p> <p style="text-align: right;"></p>



**BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,**  
**PESHAWAR**

IN RE:  
Service Appeal No. 739 / of 2016

Zar Wali Shah Ex. SPST, GPS No.1, Shah Mansoor ... Appellant

VERSUS

Province of Khyber Pakhtunkhwa  
through Secretary Elementary & Secondary  
Education (E&S) and others... ... Respondents

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5.	Leave Sanction Order	'B'	0 - 8
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7.	Departmental Appeal	'D'	0 - 10
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10.	Vakalat Nama		

Through:

زرولی شاہ

Appellant

(Shahzada Irfan Zia)  
Advocate High Court  
13-C Haroon Mansion,  
Khyber Bazar, Peshawar.  
Cell # 0300-9345297

Dated: 20.07.2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

Service Appeal No. 739 / of 2016

Khyber Pakhtunkhwa  
Service Tribunal

Diary No. 726

Dated 20-7-2016

Zar Wali Shah Ex. SPST, GPS No.1,  
Shah Mansoor, Village Tano, Post Office Mankai  
Tehsil Lahor, District Swabi... ..

... Appellant

VERSUS

1. Province of Khyber Pakhtunkhwa  
through Secretary Elementary & Secondary  
Education (E&S) Khyber Pakhtunkhwa,  
Civil Secretariat, Peshawar.
2. Director Elementary & Secondary  
Education (E&S), Khyber Pakhtunkhwa,  
G.T. Road, Peshawar.
3. District Education Officer (Male) Swabi... .. Respondents

APPEAL UNDER SECTION 4 OF KHYBER  
PAKHTUNKHWA SERVICE TRIBUNAL ACT 1974  
AGAINST THE IMPUGNED ORDER DATED 01.02.2016  
PASSED BY RESPONDENT NO.3 WHEREBY THE  
COMPETENT AUTHORITY IMPOSED MAJOR  
PENALTY OF REMOVAL FROM SERVICE UPON THE  
APPELLANT AND HIS DEPARTMENTAL APPEAL  
AGAINST THE IMPUGNED ORDER WAS REJECTED

**Filed to-day** ON 16.05.2016.

**Registrar**

Respectfully Sheweth:

FACTS OF THE CASE

1. That the appellant is Ex. Senior Primary School Teacher (SPST)  
Government Primary School No.1 Shah Mansoor, Swabi and about 16

years meritorious service is at his credit. His entire service career is spotless and no cause of complaint was ever reported against him.

2. That the appellant applied for Extra Ordinary Leave for 2 years with effect from 01.04.2014 to 31.03.2016, which was sanctioned by the competent authority with effect from 01.04.2014 to 30.09.2015. (Annex: A&B).
3. That the appellant after obtaining the sanction of Extra Ordinary Leave proceeded to Hyder Abad (Sindh) in connection with construction of his house and shops on the plot purchased by him few years back at the said place.
4. That the appellant faced different property disputes with an other party in the Province of Sindh, of which took much time and due to non-settlement of disputes the appellant failed to resume duty after expiry of the period of sanctioned leave. The opponents of the appellant were high influential, having close relations with one political figure in Swabi, who threatened the appellant and his family members and there was security risk to the appellant.
5. That on 01.02.2016 the respondent No.3 passed the impugned order whereby he imposed the major penalty of removal from service upon the appellant, on the charges of willful and unauthorized absence from duty. (Annex: C).
6. That the impugned order dated 01.02.2016 was delivered at the official address (GPS No.1, Shah Mansoor), therefore, the appellant was unaware about the same as he was in the Province of Sindh during the said period, however, on his return after settlement of property dispute he obtained the copy of the order from the office of the respondents.
7. That feeling aggrieved the appellant filed his Departmental Appeal, (Annex: D) which was rejected by the authority vide order dated 16.05.2016, but the copy of the final rejection order was not

communicated to the appellant at the address of his residence and sent by Registered Post by the Department. The Postman delivered the said letter/order at the Shop of one Mukhtiar Ali, Village Tano, who handed over the said letter to the appellant after sufficient delay, therefore, the appellant failed to file the instant appeal before this honourable Tribunal within the statutory period fixed under the law (Annex: E&F), hence the instant appeal is being filed on the following grounds:-

GROUND:

- a. That the absence from duty of the appellant was not intentional or deliberate, but due to security risks to him and to his family. The circumstances were beyond control of the appellant, therefore, he is entitled for a lenient view and the impugned orders are harsh and not proportionate to the guilt.
- b. That ex-parte proceedings were initiated against the appellant and no opportunity of defense was afforded to him at any stage. The departmental appeal of the appellant was also rejected without giving him an opportunity of hearing, thus he was condemned unheard.
- c. That it is cardinal principle of law that "No one can sit as a Judge in his own cause". The respondent No.3 passed the impugned order dated 01.02.2016 and imposed the major penalty of removal from service upon the appellant and the same authority rejected the departmental appeal of the appellant against his own impugned order dated 01.02.2016. Thus the action of respondent No.3 is unwarranted by law and his orders are unsustainable under the law.
- d. That it is well settled principle of law that in case of major penalty the department is under legal obligation to conduct regular inquiry, but in the instant case no regular inquiry was

conducted by the respondents, therefore, the appellant was unable to defend his case and no opportunity was given to him to vindicate his plea and position.

- e. That about 16 years meritorious service is at the credit of the appellant, and he always performed his statutory duties with zest and zeal. The entire service career of the appellant is unblemished and no cause of complaint was ever reported against him, therefore, being first fault on the part of the appellant the matter needs to be considered sympathetically.
- f. That it was in the knowledge of the respondents that the appellant is in the Province<sup>of</sup> Sindh, but the impugned orders were sent at the official address of the appellant (GPS No.1, Shah Mansoor) which clearly indicates the malafide of the respondents.

In view of the aforesaid facts and circumstances of the case it is humbly prayed that the impugned order dated 01.02.2016 and impugned final order dated 16.05.2016 may kindly be set aside being illegal, harsh and void, directing the respondents to reinstate the appellant into service with all back benefits.

Any other relief though not specifically asked for to which the appellant is found entitled in the circumstances of the case may also be granted to the appellant.

Through:

زرولی شاہ  
Appellant

(Shahzada Irfan Zia)  
Advocate High Court  
13-C Haroon Mansion,  
Khyber Bazar, Peshawar.  
Cell # 0300-9345297

Dated: 20.07.2016

CERTIFICATE:

Certified that as per instruction of my client, no such Service Appeal on behalf of the appellant has earlier been filed in this Honourable Tribunal on the subject matter.

Advocate

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

C.M. No. \_\_\_\_\_ / of 2016

IN RE:

Service Appeal No. \_\_\_\_\_ / of 2016

Zar Wali Shah ex. SPST, GPS No.1, Shah Mansoor ... Applicant

VERSUS

Province of Khyber Pakhtunkhwa  
through Secretary Elementary & Secondary  
Education (E&S) and others... ... Respondents

APPLICATION FOR CONDONATION  
OF DELAY, IF ANY.

Respectfully Sheweth:

1. That the instant appeal has been filed before this Honourable Tribunal in which no date has yet been fixed.
2. That the departmental appeal of the appellant/Applicant was rejected by respondent No.3 vide order dated 16.05.2016, but copy of the same was not delivered to the applicant at the address of his residence and sent by Registered Post by the respondents. The Postman delivered the said order at the shop of one Mukhtiar Ali who handed over the said order to the applicant after Eid vacations, therefore, delay occurred in filing of appeal before the Honourable Tribunal.
3. That the delay in filing the appeal before the august Tribunal is not intentional but due to circumstances beyond control.

It is, therefore, humbly prayed that the delay in filing the appeal may kindly be condoned in the interest of justice.

Through:

ذریعی شاہ

Applicant

(Shahzada Irfan Zia)  
Advocate High Court  
13-C Haroon Mansion,  
Khyber Bazar, Peshawar.  
Cell # 0300-9345297

Dated: 20.07.2016

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR

C.M. No. \_\_\_\_\_ / of 2016

IN RE:

Service Appeal No. \_\_\_\_\_ / of 2016

Zar Wali Shah Ex. SPST, GPS No.1, Shah Mansoor ... Applicant

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Province of Khyber Pakhtunkhwa  
through Secretary Elementary & Secondary  
Education (E&S) and others... Respondents

AFFIDAVIT

I, Zar Wali Shah, Ex. SPST, GPS No.1 Shah Mansoor Village Tano,  
Post Office Mankai, Tehsil Lahor District Swabi, do hereby solemnly affirm  
and declare that the contents of this **Application** are true and correct to the  
best of my knowledge and belief and nothing has been concealed from this  
Honourable Court.

ذروى شاه

Deponent.

ATTESTED

NIC. 16201-0698049-1

IDENTIFIED BY:

(Shahzada Irfan Zia)  
Advocate, Peshawar.





OFFICE OF THE DEPUTY DIRECTOR  
FEDERAL INVESTIGATION AGENCY  
IMMIGRATION AIRPORT PESHAWAR  
PH: 091-9213372

No. FIA/Immigration/2018/96

Dated: 02-03/2018

To,

The District Education Officer  
(Male) Swabi.

Subject: **COMPLETE EMIGRATION RECORD OF GOVT: SERVANTS.**

Please refer to your office letter No. 2062 dated 28-02-2018 on the subject noted above.

Enclosed please find herewith Travel Histories of the following persons provided by Assistant Director IBMS Peshawar Airport for kind perusal and further necessary action.

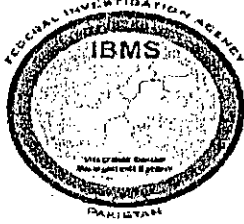
- ✓ 1. Zarwali Shah s/o Aminul Haq CNIC No. 16201-698049-1
2. Shakir Ullah s/o Farid Ullah CNIC No. 16202-8429307-1

Furthermore, the CNIC No.16202-0885072-5 in the name of Ghani-ur-Rehman s/o Umar Gul holds no travel record in IBMS System.

  
DEPUTY DIRECTOR / FIA  
IMMIGRATION BKIA PESHAWAR



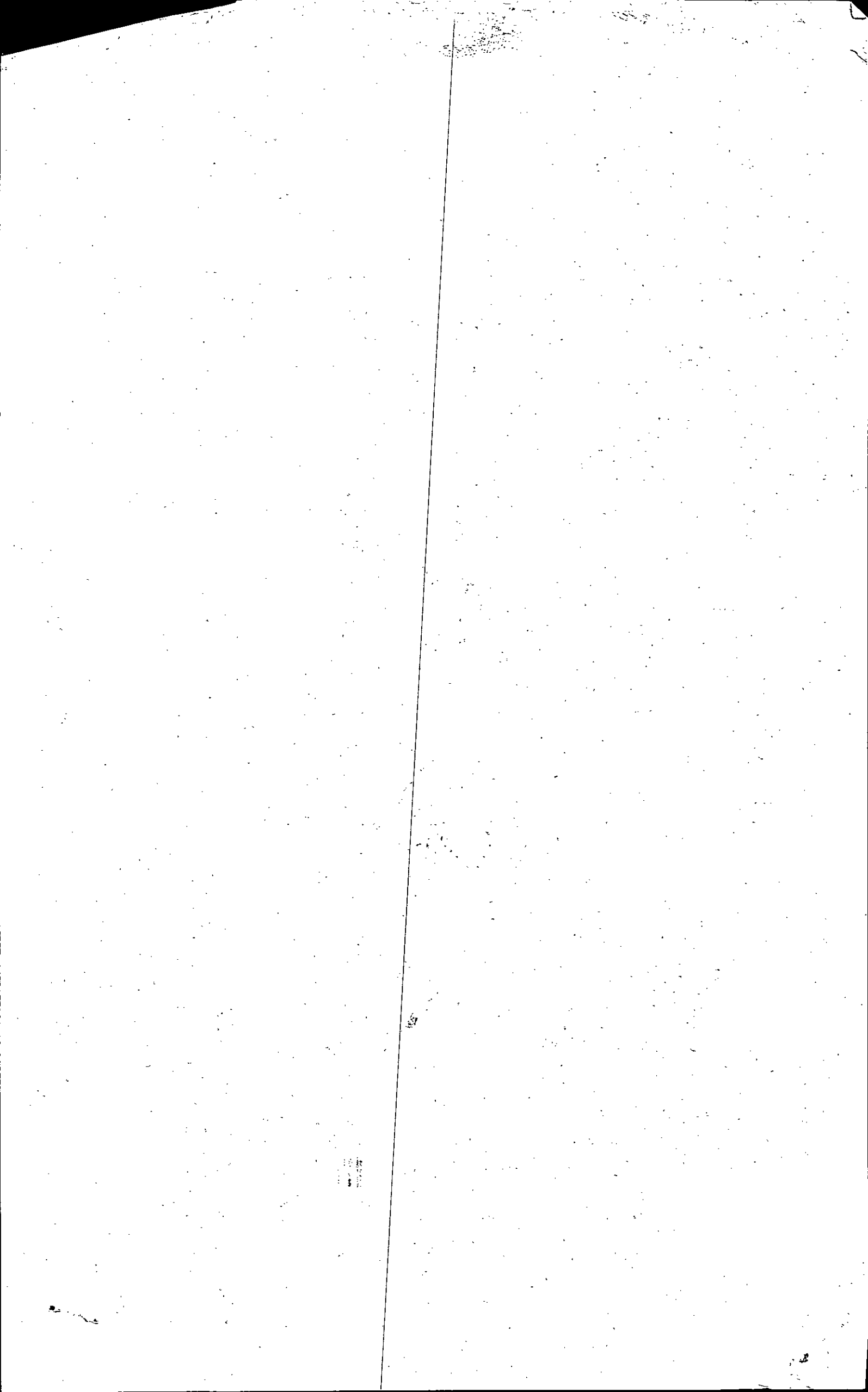
# IBMS TRAVEL HISTORY REPORT



Name ZARWALI SHAH  
Father/Husband Name AMINUL HAQ  
Personal Number 1620106980491  
Birth Date 18-MAY-69  
Nationality PK

Document Number	Event Date	Flight No	Entry Status	Name	Location Name
NC5140492	04-AUG-13	PK772	arriving		Benazir Bhutto International Airport Islamabad
NC5140492	03-MAY-14	QR609	departing		Peshawar International Airport
NC5140492	11-MAY-14	PK769	departing		Benazir Bhutto International Airport Islamabad
NC5140492	02-MAY-16	QR614	arriving		Benazir Bhutto International Airport Islamabad
NC5140493	10-OCT-16	EY232	departing		Benazir Bhutto International Airport Islamabad
NC5140493	28-FEB-18	PK734	arriving		Allama Iqbal International Airport, Lahore

Dist. Education Officer  
(Male) Swabi





OFFICE OF THE DISTRICT EDUCATION OFFICER (MALE) SWABI

LEAVE SANCTION:-

Under the provision of Khyber Pakhtunkhwa civil servant revised leave rules 1981, sanction is hereby accorded to the grant of Extra Ordinary Leave without pay w.e.f. 01-04-2014 to 30-09-2015 (548 days) in respect of Mr. Zar Wali Shah PST GPS No.1 Shah Mansoor District Swabi in the best interest of public services.

Note:- Entry to this effect should be made in his Service Book and Leave Account.

(ABDUS SALAM)  
DISTRICT EDUCATION OFFICER,  
(MALE) SWABI

Endst: No. 1589-6 / Dated: 21/4/ / 2014.

Copy of the above is forwarded to the:-

1. Sub-Divisional Education Officer (Male) Swabi.
2. District Accounts Officer Swabi.

DISTRICT EDUCATION OFFICER,  
(MALE) SWABI

OFFICE OF THE SUB DIVISIONAL EDUCATION OFFICER (M) SWABI

Endst. No: 492 / Dated 23/4 / 2014.

Forwarded for information to the:-

- 1- ASDEO (M) Swabi.
- 2- Head Teacher GPS No-1 Shah Mansoor.
- 3- Teacher Council
- 4- Account Branch Local office.

attested  
18/4

**Office of the District Education Officer (Male) Swabi**  
**Notification: -**

No. 84

4/2/16

WHEREAS Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 on account of his willful and un-authorized absence from duty w.e.f. 01-10-2015 and was directed to resume his duty by the ASDEO (M) Circle Thand Koi vide his office No. 297, dated: 17-10-2015, No. 300, dated: 02-11-2015 and No. 307, dated: 18-11-2015, but he failed to resume his duty.

AND WHEREAS absence notice was served upon the accused official Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi "Daily News Papers" "Express Peshawar" dated: 09-01-2016 and "Daily Mashriq" dated: 12-01-2016 to resume his duty within 15 days, but he remained absent and did not report for duty in response of the above absence notice.

AND WHEREAS the competent authority i.e. the DEO (Male) Swabi after having considered the charges and evidence on record is of the view that the charges willful and un-authorized absence from duty against the accused have been proved.

NOW, THEREFORE, in exercise of the powers conferred under Section 3 b (iii) of the Khyber Pakhtunkhwa Removal from service under (Efficiency & Discipline) Rules 2011, the competent authority is pleased to impose the major penalty of removal from service upon Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi with immediate effect. The period of his absence from duty w.e.f. 01-10-2015 till the issuance of this order be treated as un-authorized absence from duty without pay.

E/B

Encls. to ASDEO

Thand Koi

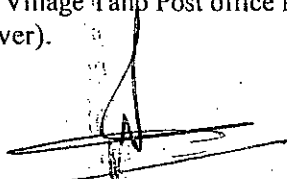
Encls. No. 42-48

/F.No.2-DA-13/Absent PST (M) Dated Swabi the 01/02/2016

27

(JEILAN MUAHMMAD)  
 DISTRICT EDUCATION OFFICER  
 (MALE) SWABI

- Copy of the above is forwarded for information and necessary action to the: -
1. Director Elem. & Secy: Education Khyber Pakhtunkhwa Peshawar.
  2. District Monitoring Officer Swabi.
  3. District Accounts Officer Swabi.
  4. Sub-Divisional Education Officer (M) Swabi w/r to his No. 3288, dated: 14-12-2015.
  5. Circle Officer Circle Thand Koi.
  6. Head Teacher GPS No.1 Shah Mansoor Tehsil and District Swabi.
  7. Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi (Under Register Cover).

  
 DISTRICT EDUCATION OFFICER  
 (MALE) SWABI

Encls. NO 113 / Dated 8/2/2016

Copy of the above is forwarded for information & n/action

1. ASDEO (Male) Circle Thand Koi .

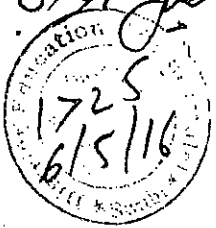
RP 08/02/2016  
 SUB DIVISIONAL EDU. OFFICER  
 (MALE) SWABI

attested  
 18/2

جناب صاحب ڈسٹرکٹ ایجوکیشن آفیسر صاحب (مردانہ) ضلع ہولہ

بوسالحت سب ڈویژنل آفیسر صاحب (مردانہ) تحصیل ہولہ

درخواست برآمد بحالی ملازمت



Handwritten notes and initials, including 'SPST' and '5/5/16'.

جناب عالی!

مردانہ گزارش ہے کہ مذکورہ محکمہ میں بحیثیت SPST معلم ایسی خدمات دے رہا تھا۔ اسی دوران مذکورہ کو خانگی مسائل کا سامنا ہوا۔ جس وجہ سے مذکورہ کی زندگی کو فوریات کی حالت میں لے کر اس بنا پر مذکورہ کو مورخ 09/05/16ء تک چھٹی چھٹی درخواست بھجی تھی۔ لیکن اس کا کوئی نتیجہ نہیں نکلا۔ اس دوران مذکورہ کو دفتر SPSE سے غیر باخبرگی نوٹس بھیج دیے گئے تھے۔ چونکہ مذکورہ محکمہ ایلی و عیال کو سفری اخراجات میں پریشانی تھی۔ جس کی وجہ سے مذکورہ کو کوئی اطلاع بہ وقت نہیں پہنچ سکی۔ اب جبکہ مذکورہ کے مسائل حل ہو چکے ہیں اور مذکورہ نے سکول اور دفتر سے رابطہ کیا۔ تو معلوم ہوا کہ مجھے نوٹس سے بہ خاصیت کیا گیا ہے۔ لہذا بذریعہ درخواست یہاں اپیل کی جاتی ہے کہ مذکورہ کو ایسی ملازمت پر بحال کیا جائے۔ اور مورخ 10/05/16ء تا بحالی کی مذکورہ کی چھٹی بغیر تنخواہ عنایت فرمائیں۔

القوم 04/05/16

الحمد

آپ کی تابعدار زور کی شاہہ SPST جی ایس ایف

Zamirah

HEADMASTER GPS NO. 1 Shahmansoor (S.S.D.) 04/05/16

attested 127

( Annex: E )

11

Registered

Office of the District Education Officer (Male) Swabi

No. 5673 / P. File Zarwali Shah Ex-SPST

Dated Swabi the 16/5/2016

To

Mr. Zarwali Shah Ex-SPST,  
GPS No.1 Shah Mansoor  
Village Tano Post office Manki,  
Tehsil Lahor District Swabi

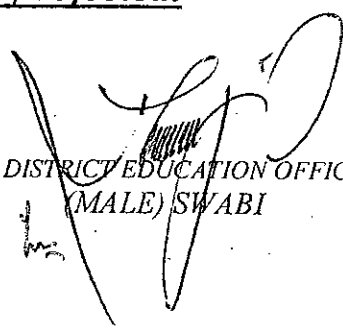
Subject: - Appeal

Memo: -

Reference your application No. NIL, Dated: 04-05-2016 on the subject cited above.

All codal formalities has been observed in your termination, your appeal is not addressed to the appellate authority, further more your present appeal is also badly time bared.

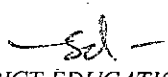
**Hence your appeal is hereby rejected.**

  
DY: DISTRICT EDUCATION OFFICER  
(MALE) SWABI

Endst: No. \_\_\_\_\_

Copy of the above is forwarded to the: -

1. Director Elem: & Secondary Education Khyber Pakhtunkhwa Peshawar.
2. Sub-Divisional Education Officer (Male) Swabi.
3. Deputy Commissioner Swabi.
4. ASDEO (Male) concerned circle.
5. Head Teacher GPS No.1 Shah Mansoor.

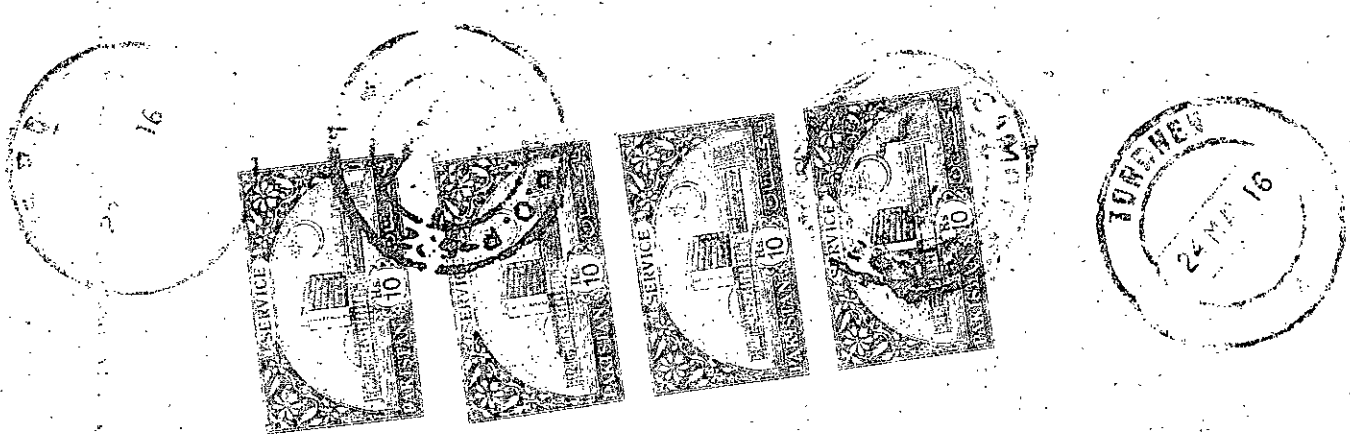
  
DY: DISTRICT EDUCATION OFFICER  
(MALE) SWABI

attested.  
187

Mir Zafwari Shah Ex-spst  
GPS No 1 Shah Mansoor Village

1265 Tano post office Manki  
SWABI  
پست خانہ منکی

District Education Officer  
(Mails) Swabi  
R. A.  
District Education Office

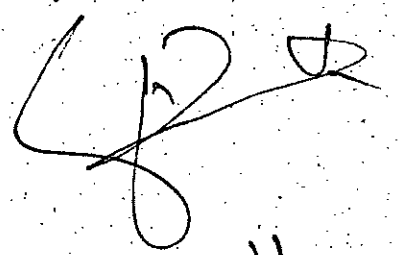


187  
attested



ایک عدد درج ذیل ہے نمبر 1265 بنام صاحب زوروں شاہ ولد محمد اسرار الحق  
 ساکن ٹانفو تحصیل درویش پور ضلعہ بہاولپور کا نام مورخہ 24/5 کو مورخہ 16  
 دور میں چھٹیا عمل ودر غفلت ہی ساکن ٹانفو تحصیل درویش پور بہاولپور  
 کے مورخہ 28/5 کو دی گئی ہے۔


پروفیسر پوسٹ کا مندر تانفو  
 ریاضت کمال و مہربانی کا نام




40  
 pm torchen (Swatara)

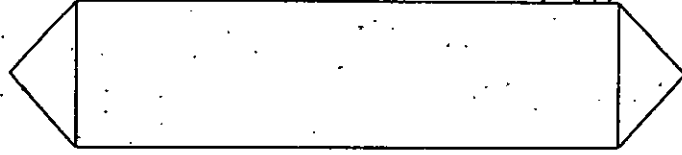


18/07/2016  
 District Office  
 Bahawalpur  
 Ph: 071-8000000

attest  




Before the KPK Service Tribunal



Zar Wali Shah 2، پنجاب

20.7.2016

مورخہ

Province of KPK

Zar Wali Shah

مقدمہ

دعویٰ

Service Appeal

جرم

### باعث تحریر آنکہ

مقدمہ مندرجہ عنوان بالا میں اپنی طرف سے واسطے پیروی و جواب دہی وکل کارروائی متعلقہ

آن مقام Peshawar کے لیے Shahzada Irfan Zia

مقرر کر کے اقرار کیا جاتا ہے۔ کہ صاحب موصوف و مقدمہ کی کل کارروائی کا کامل اختیار ہوگا۔ نیز

وکیل صاحب کو راضی نامہ کرنے و تقرر ثالث و فیصلہ پر حلف دینے جواب دہی اور اقبال دعویٰ اور

بصورت ڈگری کرنے اجراء اور وصولی چیک در و سپیہ عرضی دعویٰ اور درخواست ہر قسم کی تصدیق

زرائیں پر دستخط کرانے کا اختیار ہوگا۔ نیز صورت عدم پیروی یا ڈگری یکطرفہ یا اپیل کی برآمدگی

اور منسوخی نیز دائر کرنے اپیل نگرانی و نظر ثانی و پیروی کرنے کا مختار ہوگا۔ از بصورت ضرورت

مقدمہ مذکور کے کل یا جزوی کارروائی کے واسطے اور وکیل یا مختار قانونی کو اپنے ہمراہ یا اپنے بجائے

تقرر کا اختیار ہوگا۔ اور صاحب مقرر شدہ کو بھی وہی جملہ مذکورہ باختیارات حاصل ہوں گے

اور اس کا ساختہ پرداختہ منظور قبول ہوگا دوران مقدمہ میں جو خرچہ ہر جانہ التوائے مقدمہ کے

سبب سے وہ ہوگا۔ کوئی تاریخ پیشی مقام دورہ پر ہو یا حد سے باہر ہو تو وکیل صاحب پابند ہوں

گے۔ کہ پیروی مذکور کریں۔ لہذا وکالت نامہ لکھ دیا کہ سندر ہے۔

Accepted by  
[Signature]

ررونی سناہ

المرقوم 20th July 2016

العہدہ گاہ العہدہ  
مقام Peshawar کے لئے منظور ہے۔

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

C.M.No. \_\_\_\_\_/of 2016  
IN RE:

Service Appeal No.739/2016

1. Zarwali Shah Ex-SPST, GPS No.1 Shahmansoor Village Post Office Manki Tehsil Lahor District Swabi.....**Appellant**

**VERSUS**

1. Secretary E&SE Khyber Pakhtunkhwa Peshawar
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Education (E&SE) Male Swabi

.....**Respondents**

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1	Para wise Comments with affidavit	-	01-03
2	Reply on application for condonation of delay	-	04
3	Absence notices	Annexure-A	05-13
4	Publication of Show cause in News Papers	Annexure-B	14-16
5	Removal from service Notification	Annexure-C	17-20

~~DISTRICT EDUCATION OFFICER  
(MALE) SWABI~~  
Distt: Education Officer  
(Male) Swabi

28-9-16

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

Service Appeal No.739/2016

1. Zarwali Shah Ex-SPST, GPS No.1 Shahmansoor Village Post Office  
Manki Tehsil Lahor District Swabi.....**Appellant**

**VERSUS**

1. Secretary E&SE Khyber Pakhtunkhwa Peshawar
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Education (E&SE) Male Swabi  
.....**Respondents**

**PARAWISE COMMENTS ON BEHALF OF RESPONDENTS 01 TO 03**

**Respectfully Sheweth,**

**PRELIMINARY OBJECTIONS.**

1. That the instant Appeal is badly time barred.
2. That the Appellant has no locus standi or cause of action to file the instant Appeal.
3. That the Appellant has not come to the Tribunal with clean hands.
4. That the Appellant concealed the material facts from the Honourable Tribunal.
5. That the Appellant has filed the instant Appeal just to pressurize the respondents.
6. That the Appellant is estopped by his own conduct to file the instant appeal.
7. That, the Appeal is not maintainable in the present form and also in the present circumstances of the issue.
8. That the instant Appeal is against the prevailing laws and rules.

**ON FACTS.**

1. That this para of the appeal relates to the Ex-service record of the appellant
2. Admitted the leave was sanctioned by the competent authority w.e.f. 01.04.2014 to 30.09.2015.
3. That this para relates to the personal engagement of the appellant.
4. That this para relates to his personal affairs and he did not inform the department/Law enforcement agencies about his involvement in property disputes and other issues/threats. However applicant admitted his unauthorized absence.
5. That after observing all the codal formalities as absence notices and publication in two leading News Papers the respondent No.3 passed the order dated 01.02.2016 and removed him from service due to willful and unauthorized absence from duty. (Annexure A,B&C attached).

6. Denied and incorrect, the appellant being an educated person and a civil servant may aware of his leave period and its date of expiry. He did not bother to know about his service and thus turned a deaf ears towards his professional obligations and remained out of reach intentionally. The order dated 01.02.2016 was sent on his home address which was returned to the office undelivered with the remarks that he was not at village.
7. Incorrect and denied, he has been removed from service on 01.02.2016 and every civil servant may file an appeal against any decision to next higher authority within 30 days after the issue of order. He has submitted his appeal on 04.05.2016, which is badly time barred and the same has been submitted to DEO(M) Swabi which is a wrong Forum for such an appeal. The appeal may be submitted to Director E&SE Khyber Pakhtunkhwa, Peshawar as per rules. The late delivery of the letter is not a fault of Education Department. The appellant personally responsible for late submission of the instant appeal. Hence the appellant has no cause of action to file the instant appeal and the appeal in hand is liable to be dismissed on the following grounds.

### GROUND.

- a. Incorrect and denied, as per the para that he had threats to his and his family's lives/life, he may inform the department through letter/telephone/email etc; but he did not bother to inform the department. Moreover there is nothing on this office record that he has been charged in any case/cases due to which he was absconder and was not in the position to report for duty. All these are lame excuses for misguiding the Honourable Service Tribunal.
- b. Absolutely Incorrect and denied, he has been given absence notices on his home address as well as his official address he did not report on the dates mentioned in those notices. It is pertinent to mention that he was not intended to join his duty, he did not report for duty even after the absence notice appeared in the two leading New Papers. A show cause notice has also been sent to him on home address. (Annexure-A,B&C attached).
- c. Incorrect and denied, that the respondent No.3 has not performed like a judge in himself. He followed the laid down procedure and after completion of all codal formalities issued the order of removal from service in respect of the appellant. His appeal has been rejected on the basis, that it was badly time barred and was not to the right forum.
- d. Incorrect and denied, there was no need of enquiry in the instant case, the appellant took leave and did not report for duty inspite of departmental notices and notices appeared in the print media. Enquiries are conducted whenever someone within or out side the department levels some allegations against a Government servant.
- e. Incorrect and denied, it is obvious from the duties and obligations of a civil servant chapter, civil servant act ,1973 that each and every civil servant shall perform his duty up to the entire satisfaction of the public and no chance has been given to him to deviate from the track . Moreover there is no provision in the rules that after some years of service a civil servant is allowed to violate rules.

- f. Incorrect and denied, the appellant has described in his leave application that he would construct some shops and home during the requested leave, which was granted but after the expiry of leave the appellant did not inform the department that he was still in Sindh and did not intimate his postal address to respondent No.3. The department was bound to contact him on his home/ official address and it was done.

In wake of the above submissions, it is requested that this Honourable Tribunal may graciously be pleased to dismiss the instant appeal with cost in favour of the respondents.

~~District Education Officer  
(Male) Swabi  
Distt: Education Officer  
(Male) Swabi~~

9/2/2016  
Director E& SE,  
Khyber Pakhtunkhwa, Peshawar  
Director  
Elementary & Secondary Education  
Khyber Pakhtunkhwa Peshawar

  
Secretary Elementary & Secondary Education  
Department Govt:of KPK

### AFFIDAVIT

**We do hereby solemnly affirm and declare on oath that the contents of the comments are true and correct to the best of our knowledge and belief, nothing has been concealed from this Honourable Court.**

~~DISTRICT EDUCATION OFFICER  
(MALE) SWABI  
Distt: Education Officer  
(Male) Swabi~~

BEFORE THE KHYBER PAKHTUNKHWA SERVICE TRIBUNAL,  
PESHAWAR.

C.M.No. \_\_\_\_\_/of 2016  
IN RE:

Service Appeal No.739/2016

1. Zarwali Shah Ex-SPST, GPS No.1 Shahmansoor Village Post Office  
Manki Tehsil Lahor District Swabi.....**Appellant**

**VERSUS**

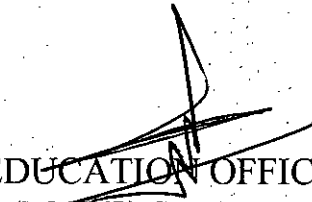
1. Secretary E&SE Khyber Pakhtunkhwa Peshawar
2. Director, E&SE Khyber Pakhtunkhwa, Peshawar.
3. District Education (E&SE) Male Swabi  
.....**Respondents**

REPLY ON APPLICATION FOR CONDONATION OF DELAY

**Respectfully Sheweth;**

1. That the title service appeal is pending before this Honourable Tribunal,  
next date of hearing is 28.09.2016.
2. Incorrect and denied, that the self explanatory rejected departmental  
appeal was delivered to the applicant at the address of his residence and  
sent by registered post by the respondent. The excuse of delay is required  
day to day justification. All these are lame excuses for misguiding the  
Honouralbe Service Tribunal.
3. That the grounds mentioned in the para wise comments may be read as  
an integral part of this reply.

In wake of the above submission, it is requested that this Honourable  
Tribunal may very graciously be pleased to dismiss the instant appeal.

  
DISTRICT EDUCATION OFFICER  
(MALE) SWABI  
Distt. Education Officer  
(Male) Swabi



Annexure 'A' consists of 09 pages.

A  
1

36

OFFICE OF THE ASDEO (M)  
CIRCLE THAND KOI  
NO 297 Dated 17/10/2015

To

Mr. Zar Wali Shah SPST  
Village Tano, PO: Mankai  
Tehsil Lahor

SUBJECT: Show Cause Notice NO.1

You Mr. Zar Wali Shah SPST GPS NO.1 Shah Mansoor were on EO leave wef 01/04/2014 to 30/09/2015 which expired on 30/09/2015, but you failed to resume your duties and has not provided your arrival report uptill now.

You are willfully absent from duty wef 01/10/2015 up to date. Therefore you are directed to resume your duty and show the actual cause of your willful absence with in 15 days of the issuance of this show cause notice.

*ASDEO*  
ASDEO (M)  
Circle Thand koi

Copy Forwarded to:  
SDEO (M) Swabi

*C/S*  
*[Signature]*  
SUB DIVISIONAL EDU: OFFICE  
(MALE) SWABI

*[Signature]*  
ASDEO (M)  
Circle Thand koi

*[Signature]*  
Distt. Education Officer  
(Male) Swabi



A  
3

OFFICE OF THE ASDEO(M)  
CIRCLE THAND KOI(SWABI)  
No. 300 Date: 02/11/15

38

wali Shah SPST  
: Tano, PO Manki  
Lahor(Swabi).

t: Show Cause Notice No.02

You Mr, Zarwali Shah SPST GPS No.1 Shahmansoor are willfully absent from  
ty w.e.f 01/10/2015 upto date. You were directed to attend your duty at school vide show  
use notice No.01 Endstt No.297 dated 17/10/2015 by ASEDO Circle Thandkoi via registered  
ist on your home address, but no response has been received from your end yet and You are still  
illfully absent from your duty.

So you are once again directed to Resume your duty with in 15 days after the issuance of this  
otice, Otherwise Disciplinary action will be taken against you.

- Sel -  
ASDEO(M)  
Circle Thandkoi  
(swabi)

Copy forwarded : ASDEO (M) Swabi

C/S  
SUB DIVISIONAL EDU: OFFICER  
(MALE) SWABI

ASDEO(M)  
Circle Thandkoi  
(swabi)

Distt. Education Officer  
(Male) Swabi

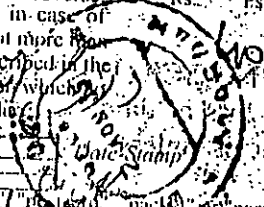
A  
4

No. 362

For Insurance Notices see reverse  
Stamps affixed except in case of  
uninsured letters of not more than  
the initial weight prescribed in the  
Post Office Guide (if of which)  
acknowledgement is due.

Rs. Ps.

Received a registered  
addressed to



Initials of Receiving Officer Write "letter" for letters, "packet" for parcels  
with the word "insured" when necessary.

Insured for Rs. (in figures) (in words)

If insured. Insurance fee Rs. (in words) Kilo Grams

Name and address of sender

~~Dist. Education Officer~~  
(Male) Swabi


A

From: ASDEO (M)

28

Circle Thand Kot

Address: GPS No. 2 Thand Kot  
Teh & Distt. Swabi

  
Distt. Education Officer  
(Male) Swabi

To

Zarwali Shah PSI

Village :- Tano, Post office Manki

Tehsil :- Lahor (Swabi)

سرور علی شاہ استاد

گاون تانو

ڈیڑھ گانہ مانکی

کسٹم ڈیپارٹمنٹ

To

Sera

A  
6

Circle Thawal Koti  
No. 307 dt 18/11/2015

(41)

Mr. Zarwanbi Shah SPSI  
Village: Tano, P.O. Manki  
Tahsil. Lahor (Swabi)

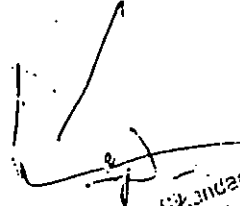
Subject: Show Cause No. 03


As you have been already directed by  
the undersigned vide Show Cause No. 1, letter no  
297 dt 17/10/2015 and Show Cause No. 02, letter no  
300 dated 10/11/2015 via registered post on  
your home address, but no response has

been received from you and up till now,  
and you are still Absent from duty.  
Therefore you are once again directed  
to resume your duty with in 15 days after  
the issuance of this notice otherwise disciplinary  
action will be taken against you.

Copy forwarded to:  
1) SDEO (M) Swabi

  
SUB DIVISIONAL EDU. OFFICER  
(MALE) SWABI

  
ASDEO Circle Thawal Koti

  
Distt: Education Officer  
(Male) Swabi

A  
7

Stamps affixed except in case of uninsured letters of not more than the initial weight prescribed in the Post Office Guide or on which no acknowledgement is due.

Rs. 40

Received a registered letter addressed to

Shah  
Date-Stamp

Initials of Receiving Officer

\*Write here "letter", "postcard", "packet" or "parcel" with the word "insured" before it when necessary (in words)

Insured for Rs. (in figures)

Three

Insurance fee Rs.

Ps. (in words)


Weights

Kilo

Grams

Name and address of sender

20/11/2015

  
Distt. Education Officer  
(Male) Swabi



A  
8

Office of the ASDEO  
Circle Thandkoi (Swabi)

No. 311 Date. 04/12/2015

43

To

The SDEO (M)  
Swabi

Subject: Absent from Duty/long leave regarding Mr.Zar wali shah  
SPST GPS No.1 Shah Mansoor

Memo:-

Reference to DEO No.15088 at 16/10/2015 on the subject cited above, it is stated that the teacher has not resumed his duty yet.

The undersigned issued 1<sup>st</sup> Notice No.297 at 17/10/2015 on his home address, but no response was received from his end, 2<sup>nd</sup> Notice No. 300 Date 02/11/2015 was issued on his home address via registered post.

It is stated for your information that both the letters were received back as undelivered on 09/11/2015 with the remarks of the post office officials that the teacher is not present in his village.

A 3<sup>rd</sup> Absent Notice No.307 date 18/11/2015 was issued on his home address via registered post but no response has received yet.

So it is concluded that Mr. Zar wali Shah SPST GPS No.1 Shah Mansoor is absent from his duty since 01/10/2015.

Moreover as per statement of the post office the teacher is not present in his home town.

Hence the report along with photo copies of the notices and envelops is hereby submitted for your kind information and necessary action please.

9/5  
12/12/2015  
SUB DIVISIONAL EDU: OFFICER  
(MALE) SWABI

ASDEO(M)  
Circle Thand Koi

Dis. & Distribution Officer  
(Male) Swabi



A/A

44

14/12/15

OFFICE OF THE SUB DIVISIONAL EDU OFFICER,  
(MALE) SWABI

No. 3288 /Dated: 14/12 /2015

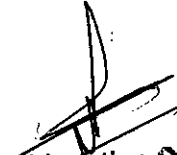
To


The District Education Officer,  
(Male) Swabi

Subject: **ABSENT FROM DUTY/LONG LEAVE REGARDING MR. ZAR WALI SHAH, SPST  
GPS NO.1.SHAH MANSOOR**

Memo:

Reference your memo No.15088, dated: 16/10/2015, an original report of concerned ASDEO along with relevant documents on the subject cited above is hereby submitted for information and necessary action please.

  
Distt. Education Officer  
(Male) Swabi

 13/12/2015  
SUB DIVISIONAL EDU OFFICER,  
(MALE) SWABI

Annexure 'B' consists of 03 pages.

B  
↑

## نوٹس اظہار وجوہ

45

آپ مسمیٰ زرولی شاہ ایس پی ایس ٹی گورنمنٹ پرائمری سکول نمبر اشاہ منصور (صوابی) مورخہ 01.10.2015 سے تاحال مسلسل اپنی ڈیوٹی سے غیر حاضر ہیں، دوران غیر حاضری بذریعہ متعلقہ اسٹنٹ سب ڈویژنل ایجوکیشن آفیسر (مردانہ) سرکل ٹھنڈ کوئی آپ کو گھر کے پتہ پر شوکا نوٹس برائے نمبر 297 مورخہ 17.10.2015، نمبر 300 مورخہ 02.11.2015 اور نمبر 307 مورخہ 18.11.2015 جاری کئے گئے جس میں آپ کو ڈیوٹی پر حاضر ہونے کی ہدایت کی گئی لیکن اس کے باوجود بھی آپ ڈیوٹی پر حاضر نہیں ہوئے۔

لہذا آخری بار بذریعہ نوٹس ہذا آپ کو متنبہ کیا جاتا ہے کہ نوٹس ہذا کے پندرہ (15) دن کے اندر اندر زبردستی کے روبرو پیش ہو کر اظہار وجوہ برائے غیر حاضری پیش کریں کہ کیوں نہ آپ کے خلاف تادیبی کارروائی کی جائے۔ عدم تعمیل کی صورت میں آپ کے خلاف حکومت کے مروجہ روڈز اور ریگولیشن 2011 کے مطابق یکطرفہ کارروائی عمل میں لائی جائے گی جو کہ آپ کی ملازمت سے برخاستگی پر منتج ہوگی۔


منجانب  
(جہان محمد)

ڈسٹرکٹ ایجوکیشن آفیسر (مردانہ)

صوابی

Dis

by 96

  
District Education Officer  
(Male) Swabi

**Early morning**  
12-1-2016

District Education Officer (Male) Swabi



Information regarding the tender for the supply of stationery items. The tender is open to all registered bidders. The deadline for submission of bids is 11:00 AM on 02-02-2016. For more details, please refer to the tender document.

13,000/-	117,000/-	1,25,000/-
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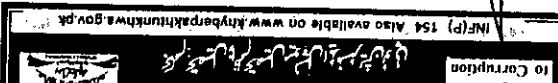
13,000/-	117,000/-	1,25,000/-
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SAVANT TO COMMISSION

27/01/12	28/01/2016
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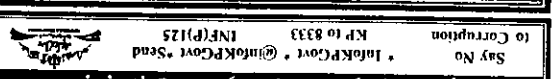
Information regarding the tender for the supply of stationery items. The tender is open to all registered bidders. The deadline for submission of bids is 11:00 AM on 02-02-2016. For more details, please refer to the tender document.

30-06-2016	01-01-2016	30-06-2016
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Say No	Item	Quantity	Unit	Rate
01/02/2016	Stationery	28-1-2016	6,70,000	
30-06-2016	Stationery	01-02-2016		
02-2-2016	Stationery			

Say No	Item	Quantity	Unit	Rate
11-08-2015	Stationery	11-08-2015		
18-12-2015	Stationery			
12-12-2015	Stationery			
23-08-99	Stationery			



Information regarding the tender for the supply of stationery items. The tender is open to all registered bidders. The deadline for submission of bids is 11:00 AM on 02-02-2016. For more details, please refer to the tender document.

**EXECUTIVE ENGINEER**  
Irrigation Division D.I. Khan

Notice regarding the tender for the supply of stationery items. The tender is open to all registered bidders. The deadline for submission of bids is 11:00 AM on 02-02-2016. For more details, please refer to the tender document.

Sl. No.	Item	Quantity	Unit	Rate
1	Stationery	300		318750/-
2	Stationery	40		375025/-
3	Stationery	75		413750/-
4	Stationery	50		228750/-

Information regarding the tender for the supply of stationery items. The tender is open to all registered bidders. The deadline for submission of bids is 11:00 AM on 02-02-2016. For more details, please refer to the tender document.

Handwritten signature or initials



Annexure "C" consists of 04 pages.

C  
1

Registered

49

**Office of the District Education Officer (Male) Swabi**  
**Notification: -**

WHEREAS Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 on account of his willful and un-authorized absence from duty w.e.f. 01-10-2015 and was directed to resume his duty by the ASDEO (M) Circle Thand Koi vide his office No. 297, dated: 17-10-2015, No. 300, dated: 02-11-2015 and No. 307, dated: 18-11-2015, but he failed to resume his duty.

AND WHEREAS absentee notice was served upon the accused official Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi "Daily News Papers" "Express Peshawar" dated: 09-01-2016 and "Daily Mashriq" dated: 12-01-2016 to resume his duty within 15 days, but he remained absent and did not report for duty in response of the above absence notice.

AND WHEREAS the competent authority i.e. the DEO (Male) Swabi after having considered the charges and evidence on record is of the view that the charges willful and un-authorized absence from duty against the accused have been proved.


NOW, THEREFORE, in exercise of the powers conferred under Section 3 b (iii) of the Khyber Pakhtunkhwa Removal from service under (Efficiency & Discipline) Rules 2011, the competent authority is pleased to impose the major penalty of removal from service upon Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi with immediate effect. The period of his absence from duty w.e.f. 01-10-2015 till the issuance of this order be treated as un-authorized absence from duty without pay.

(JELIAN MUAHIMMAD)  
DISTRICT EDUCATION OFFICER  
(MALE) SWABI

1062-48  
Endst No. \_\_\_\_\_ /F.No.2-DA-13/Absent PST (M) Dated Swabi the 01/10/2016

Copy of the above is forwarded for information and necessary action to the: -

1. Director Elem: & Secy: Education Khyber Pakhtunkhwa Peshawar.
2. District Monitoring Officer Swabi.
3. District Accounts Officer Swabi.
4. Sub-Divisional Education Officer (M) Swabi w/r to his No. 3288, dated: 14-12-2015.
5. Circle Officer Circle Thand Koi.
6. Head Teacher GPS No.1 Shah Mansoor Tehsil and District Swabi.
7. Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi (Under Register Cover).

  
Dist. Education Officer  
(Male) Swabi

  
DISTRICT EDUCATION OFFICER  
(MALE) SWABI

016

Registered

29/11

2/11-2-16

10/2/16

**Office of the District Education Officer (Male) Swabi**  
**Notification: -**

WHEREAS Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi was proceeded against under the Khyber Pakhtunkhwa Government Servants (Efficiency & Discipline) Rules 2011 on account of his willful and un-authorized absence from duty w.e.f. 01-10-2015 and was directed to resume his duty by the ASDEO (M) Circle Thand Koi vide his office No. 297, dated: 17-10-2015, No. 300, dated: 02-11-2015 and No. 307, dated: 18-11-2015, but he failed to resume his duty.

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NOW, THEREFORE, in exercise of the powers conferred under Section 3 b (iii) of the Khyber Pakhtunkhwa Removal from service under (Efficiency & Discipline) Rules 2011, the competent authority is pleased to impose the major penalty of removal from service upon Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi with immediate effect. The period of his absence from duty w.e.f. 01-10-2015 till the issuance of this order be treated as un-authorized absence from duty without pay.

(JEHAN MUAHMMAD)  
DISTRICT EDUCATION OFFICER  
(MALE) SWABI

Endst No. 1262-48 /F.No.2-DA-13/Absent PST (M) Dated Swabi the 01/10/2016

- Copy of the above is forwarded for information and necessary action to the:-
1. Director Elem: & Secy: Education Khyber Pakhtunkhwa Peshawar.
  2. District Monitoring Officer Swabi.
  3. District Accounts Officer Swabi.
  4. Sub-Divisional Education Officer (M) Swabi w/r to his No. 3288, dated: 14-12-2015.
  5. Circle Officer Circle Thand Koi.
  6. Head Teacher GPS No.1 Shah Mansoor Tehsil and District Swabi.
  7. Mr. Zarwali Shah SPST GPS No.1 Shah Mansoor Village Tano Post office Manki Tehsil Lahor District Swabi (Under Register Cover).

~~Distt Education Officer~~  
(Male) Swabi

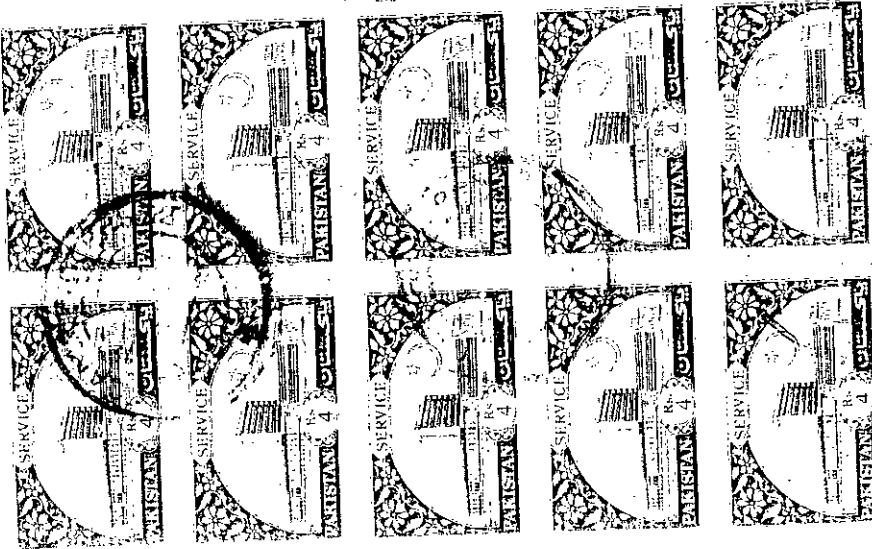
DISTRICT EDUCATION OFFICER  
(MALE) SWABI

Mr. Zarwali Shah SPST  
Village Tano post office  
Manki Tehsil Feroz SWABI

R-1060

622

پروفیسر عزیز محمد صاحب  
پتو 606 سروس سٹیشن کی طرف سے



Mr. Zarwali Shah SPST  
Village Tano P.O. Manki Tehsil Feroz  
SWABI



C  
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*E/P  
Enclosure to DEO  
(M) for information  
and N/A  
10/3/2016*

OFFICE OF ASDEO (M)  
CIRCLE THANDKOI (SWABI)

NO. 336 DATE 09/03/16

51

TO:  
S.D.E.O  
Swabi.

Subject: Report regarding Zarwali shah Ex-SPST

R/Sir,

Reference to your SMS dated 16-02-2016, it is stated for your kind information that Mr., Zarwali shah SPST was on earned leave w.e.f 01-04-2014 to 30-09-2015 vide DEO no. 1589-G dated 21-04-2014.

The teacher concerned took his service book along with leave sanction from the establishment branch DEC office, which he has not returned uptill now.

The undersigned hasn't received hence it is impossible to make necessary entry of his termination in the service book.

The report is submitted for your kind information and N/A please.

*[Signature]*  
Distt. Education Officer  
(Male) Swabi

*[Signature]*  
ASDEO (M)  
Circle Thand Koi (Swabi)



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OFFICE OF THE SUB DIVISIONAL EDU OFFICER,  
(MALE) SWABI  
16/3/16 No. 285 /Dated: 15/3/2016

52

To

The District Education Officer,  
(Male) Swabi

Subject: REPORT REGARDING ZAR WALI SHAH, Ex-SPST

Memo:

Reference your office endst. No. 1042-48, dated: 1/2/2016 regarding the termination of the above referred Ex-SPST in the subject noted above.


In this regard it is submitted that the undersigned directed the ASDEO circle Thand Koi to make necessary entry in his service book accordingly.

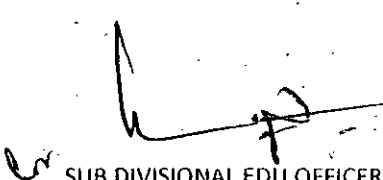
But the ASDEO concerned submitted a report vide his office No.336 dated 09-03-2015 stating that he was on earned leave w.e.f 01-04-2014 to 30-09-2015 vide your No.1589-G dated 21-04-2014. He further added that the teacher under question took his service book along with leave sanction from the establishment branch of your office which he has not returned up till now.

Finally the circle officer categorically submitted that he is unable rather impossible for him to make necessary entry as per your demand and consequently the undersigned is also suffering.

Hence submitted for information and further orders as deem appropriate please.

Encls: - ASDEO report.

  
Distt. Education Officer  
(Male) Swabi

  
SUB DIVISIONAL EDU OFFICER,  
3 (MALE) SWABI

Distt. Education Office  
(Male) Swabi

Before the K.P.K Service Tribunal, Peshawar.

Zarwali Shah

Appeal No. 739/2016

VS Province of K.P.K etc.

Rejoinder on behalf of appellant

R/Shewekh.

Reply of Objections

All the objections taken by respondents are incorrect and legally untenable. The appellant has got legal cause of action and valid locus standi. Application for condonation is attached with genuine reasons. The appellant appeared before the court with clean hands, having bonafide claim and appeal is maintainable. The appeal is in accordance with relevant law and rules, hence the objections are abortive.

ON FACTS

1. Needs no reply.
2. Admitted by respondents hence need no reply.
3. Needs no reply
4. The averment of appeal in para-4 is correct and not disputed by respondents, hence need no reply.
5. Needs judicial review whether the absence is willful or due to circumstances beyond control.
6. Incorrect. The averment of para-6 of appeal is correct, while the reply is incorrect.
7. Incorrect. The averment of para.7 of appeal is correct, while the reply is incorrect.

ON GROUNDS

A to F

All the grounds taken in appeal are correct and legal, while the reply offered by respondents are abortive and untenable.

It is therefore humbly requested that the relief may kindly be granted as prayed for in the appeal.

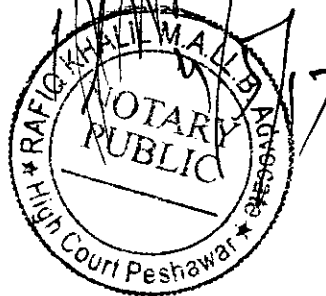
AFFIDAVIT

I Zarwali Shah do hereby declare on oath that the contents of this rejoinder are true and correct to the best of my knowledge and belief.

زرولی شاہ

Deponent.

ATTESTED



زرولی شاہ

Appellant

Through

Shahzada Irfan Zia  
Advocate Peshawar.